68. Background. In the NPRM, the Commission tentatively concluded that the new NANP Administrator should assume the function of Central Office (CO) code assignment. Currently, CO codes are assigned by the dominant LEC in each NPA.[137] CO code administrators assign and administer CO codes. Functions associated with CO code assignment and administration include processing of CO code applications, accessing and maintaining CO code assignment databases and interpreting CO code guidelines. CO code administrators must also contribute to the CO Code Use Survey (COCUS), which is compiled and used by Bellcore to anticipate and forecast NPA exhaust.

69. CO code administrators are also called on to predict NPA exhaust and plan for NPA relief. When the dominant LEC in an NPA determines that CO codes in that NPA are threatened with depletion, the LEC, in its capacity as the CO code administrator, proposes a relief plan to the state regulatory commission with jurisdiction over the NPA. The state agency then typically conducts a public hearing on the proposal and adopts a final relief plan.[138] A new NPA code is assigned by either splitting[139] the old NPA or overlaying[140] it. The NPA relief process, which has been completed in several NPAs and is planned or ongoing in many more, is often controversial due to the concerns of end users, regulators and new market entrants, such as wireless and paging services, who fear they are not receiving equitable treatment from the LEC administrators. The Commission tentatively concluded in the NPRM that the centralization of CO code assignment functions in the new NANP

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[137] See note 20, supra.

[138] See, e.g., Illinois Bell Telephone Company Petition for Approval of NPA Relief Plan for 708 Area Code by Establishing a 630 Area Code, Illinois Commerce Commission, No. 94-0315, Order (released March 20, 1995) (ordering a three-way split of the 708 area code in suburban Chicago); Airtouch Communications v. Pacific Bell, California Public Utilities Commission, Case No. 94-09-058 (Order pending) (proposed plan to overlay new area code 562 in same geographical region as existing 310 area code in southern California).

[139] When an NPA split occurs, the area within the original NPA is split into two or more areas. One area retains the original NPA code, while the other areas are assigned new NPA codes. Typically, NPA splits involve splitting the original area into two areas. Telephone subscribers in the area assigned the new NPA codes, must change their telephone numbers.

[140] When an NPA overlay occurs, the boundaries of the area within the original NPA are not changed. The existing NPA code remains in use and one or more NPA codes are introduced, or overlayed, for use within the original NPA area. Existing telephone subscribers are not required to change their telephone numbers. Following the overlay, all new subscribers, or certain types of subscribers such as cellular phone users receive telephone numbers using the new NPA codes.

administrator would be in the public interest.[141]

70. Position of the Parties. A majority of commenters support the Commission's tentative conclusion that responsibility for administering CO codes should be centralized in the new NANP Administrator.[142] Several commenters argue that LEC administration of CO codes gives the LECs an unfair advantage over competing services.[143] AirTouch finds it "intolerable in a market as competitive and dynamic as telecommunications that when, how and where a wireless carrier assigns numbers to its subscribers is regularly dictated by a competing user of those numbers."[144] Wireless and paging service providers express particular concern with NPA relief planning as it has been exercised by the LEC CO code administrators. AirTouch cites its experience related to NPA relief planning for the Los Angeles area, arguing that the original solution proposed by Pacific affected only cellular and paging providers.[145] PCIA explains in detail why it believes the impact of NPA relief such as has occurred in New York, Los Angeles and Chicago is discriminatory and poses a serious threat to competition.[146] TCG notes that in applying for CO codes from LEC administrators, it was required to divulge sensitive information that could be used in an anti-competitive manner by the LECs, and for this reason alone CO code administration should be centralized and performed by a neutral NANP administrator.[147]

71. Vanguard argues that centralizing CO codes will increase efficiency of CO code assignment.[148] Similarly, some commenters maintain that centralizing CO code administration in a neutral NANP administrator would lead to uniform and consistent application and interpretation of CO code assignment guidelines.[149] TCG filed CO code

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[141] NPRM at para. 29.

[142] See, e.g., Ad Hoc Comments at 6-7; ALTS Reply at 3; AMTA Comments at 6; AT&T Comment at 10, n. 11; McCaw Reply at 8; Nextel Reply at 9-10; OPASTCO Comments at 4; PCIA Reply at 10; Sprint Reply at 4; TCG Reply at 3.

[143] See, e.g., AirTouch Comments at 7; ALTS Reply at 3; Ad Hoc Comments at 6; APC Comments at 2; TCG Reply at 4..

[144] AirTouch Comments at 7.

[145] AirTouch Comments at 6.

[146] PCIA Reply at 2-5.

[147] TCG Reply at 3.

[148] Vanguard Comments at 7.

[149] See Nextel Reply at 9; PCIA Reply at 10.

requests with every BOC in whose area TCG operates in order to test for compliance with CO code guidelines and in its Reply points to the disparate responses it received from the BOCs.[150]

72. Several commenters, primarily LECs, do not support centralization of CO code administration functions at this time.[151] They argue that centralizing and transferring the functions of CO code administration to the new NANP Administrator would be extremely complicated and would greatly increase the workload of that administrator.[152] LECs also argue that CO code administration is dependent on local characteristics and therefore requires the administrator to monitor closely details such as local geography, a task which would be difficult if administration is centralized.[153] Finally, LECs contend that CO code administration, which involves NPA relief in addition to code assignment, is an issue under the authority of state public utility commissions and state legislatures and therefore should not be removed from the state level.[154] Therefore, several LECs urge the Commission to defer the transfer and centralization of CO code administration to a later proceeding following a fuller assessment of what such transfer will entail and after the transfer of existing NANP functions.[155] Several commenters agree that CO code administration should not be centralized until after a transition period has ended, because it is more complex than other NANP administration functions.[156]

73. Discussion. We affirm our tentative conclusion in the NPRM that the functions associated with CO code administration should be centralized and transferred from the LECs to the new NANP administrator. We reach this conclusion for three reasons. First, we agree with commenters arguing that centralizing CO code assignment in a third party not affiliated

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[150] TCG Comments at 4; TCG Reply at 2; but see Pacific Reply at 11.

[151] See, e.g., Pacific Comments at 6-7; CBT Comments at 3; Stentor Comments at 7; TSTT Reply at 3; NYNEX Comments at 10-11; US WEST Comments at 9-10.

[152] See, e.g., CBT Comments at 3; GTE Comments at 12; Pacific Comments at 6-7; Stentor Comments at 7.

[153] See, e.g., Ameritech Reply at 6; Pacific Comments at 6; GTE Comments at 12.

[154] NYNEX Comments at 10; SBC Comments at 10-11; see also Bellcore Comments at 6-7; but see McCaw Reply at 8 ("[D]ecentralizing code exhaust planning among 51 regulatory authorities would paralyze effective administration of the NANP.").

[155] Ameritech Reply at 6; Bellcore Comments at 7; NYNEX Comments at 10-11; SBC Comments at 10-11; US WEST Comments at 9-10.

[156] Bell Atlantic Comments at 4; GTE Reply at 3; McCaw Reply at 8; MFS Reply at 4; Sprint Reply at 4.

with any segment of the industry will help to ensure that all those requiring them have equal, non-discriminatory access to CO codes. The current system of LEC assignment of CO codes is potentially incompatible with the principles we espoused in the Ameritech Order that numbering administration should be non-discriminatory, pro-competitive and should encourage the introduction of new technologies, which often will be used to compete with the LEC for market share.[157] CO codes are essential to other new service providers, including cellular carriers and paging providers. The linkage between CO code availability and the growth of competition to the LECs' core business increases the potential for and perception of unfair treatment in CO code allocation. An entity requesting CO codes is required to divulge competitively sensitive information to the CO code administrator. Having a CO code administrator unaffiliated with the dominant LEC would assure parties requesting codes that such information could not be used in an anti-competitive manner.

74. Second, centralizing CO code assignment in one neutral entity will increase the efficiency of CO code assignment. Currently, different LECs interpret the CO Code Assignment Guidelines[158] in their capacities as CO code administrators. Centralizing CO code assignment will lead to a more consistent application of assignment guidelines.

75. Third, a centralized CO code administration mechanism would allow the Commission and regulators from other NANP member countries regulators to keep abreast of CO code assignments and therefore to predict potential problems, such as exhaust, sooner than is possible under the current system.

76. Several LEC commenters noted that a drawback of centralizing CO code administration in the new NANP Administrator is that such a transfer of functions would complicate and increase that administrator's workload, requiring a larger staff than the current NANP Administrator. While this may be true, there is no indication that CO code administration can *not* be accomplished by a single entity and no indication why a staff must be as large as the current combined CO and NANP Administrator staff.

77. The Commission has recognized that states have a role and certain interests in the regulation of numbering resources and that it need not preempt states in order to take action with respect to numbering.[159] Historically, with the exception of matters involving

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[157] See Ameritech Order at para. 17-20.

[158] INC 95-0407-008, Rev. 4/7/95. The INC develops guidelines for the NANP Administrator and CO Code Administrators to use when processing applications for number assignments. Guidelines exist for a variety of number types including CO Codes, CICs, 800-855 numbers, and 555-NXX numbers among others. Most are developed by INC through industry initiative. In the case of CO Code Administration guidelines, the Commission directed industry to develop the guidelines.

[159] Ameritech Order at para. 10.

NPA exhaust and CO code administration, states have had a limited role with respect to NANP issues and limited interaction with the NANP Administrator. Currently, when an NPA is threatened with exhaust, the local LEC CO code administrator will propose an NPA relief plan to the relevant state regulatory body, often after input from other industry entities.[160] The state regulatory body holds hearings on the proposed plan, and adopts a final relief plan. Our requirement that CO code administration be centralized in the NANP Administrator simply transfers the functions of developing and proposing NPA relief plans from the various LEC administrators to the new NANP Administrator.[161] State regulators will continue to hold hearings and adopt the final NPA relief plans as they see fit.

78. We do not agree, however, that this necessarily compels the conclusion that CO code administration, as opposed to regulatory oversight, must be performed at the local level by state regulatory agencies or local third party entities. To continue decentralized control over CO code administration would be inefficient. Having state regulators, or designated third parties in each state, administer CO codes could create fifty-one different administrators in the United States. We note that there was little comment in the record, however, from state regulators regarding this issue despite the Commission's tentative recommendation in the NPRM that CO code administration be centralized.

79. We find no cause to defer the decision to centralize CO code administration. So long as the LECs perform the functions of CO code administration, the suspicion of anti-competitive and discriminatory treatment in CO code assignment and area code relief continues. The contentious proceedings provoked by announcements of area code relief plans can only be alleviated by ending LEC administration of CO codes. Therefore, we conclude LECs should relinquish the role of CO code administrator as soon as practicable. We do not believe a separate proceeding is necessary to determine *whether* CO code administration should be performed by the new NANP administrator. We have sufficient information before us to make that determination in this proceeding.

80. The telecommunications landscape is vastly different from what it was a decade ago, and numbering administration must reflect that change. The market entry of new competitors makes continued control over the administration of CO codes by dominant local exchange telephone companies untenable. We therefore conclude that the functions associated

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[160] See, e.g., Illinois Bell Telephone Company Petition for Approval of NPA Relief Plan for 708 Area Code by Establishing a 630 Area Code, Illinois Commerce Commission, No. 94-0315, Order (released March 20, 1995) (ordering a three-way split of the 708 area code in suburban Chicago); Airtouch Communications v. Pacific Bell, California Public Utilities Commission, Case No. 94-09-058 (Order pending) (proposed plan to overlay new area code 562 in same geographical region as existing 310 area code in southern California).

[161] States will also have input into the development of proposed NPA relief plans to the extent that they are represented on the NANC.

with CO code administration shall be centralized and transferred from the LECs to the new NANP Administrator. We discuss the timing of such transfer and other related issues in Section IV, E.

D. Funding of Numbering Administration Activities

81. Determining the appropriate transition from Bellcore to a new NANP Administrator operating under the industry model requires that we consider how the costs of numbering administration should be recovered. The Commission noted in the NPRM that determining the appropriate cost recovery mechanism would be complicated, given "the complexities of administering a numbering plan that covers not only the United States but also other countries as well."[162] Currently, numbering administration is funded by the Bellcore Client Companies who support Bellcore. CO code administration is mainly funded by the LEC administrator in each area code. Numbering policy is funded by the members of industry, that sponsor and participate in industry number fora addressing numbering policy. In the following discussion we address funding mechanisms for Commission numbering activities. The second section addresses funding of the NANP administrator.

1. Commission Numbering Activities

82. Background. In the NPRM, the Commission suggested collecting regulatory fees under the Omnibus Budget Reconciliation Act of 1993 (Budget Act) which amended the Communications Act to permit the Commission to collect regulatory fees.[163] The Commission indicated that the extent to which such fees could be used to recover costs of NANP administration would depend on the entity chosen as NANP Administrator.[164]

83. Positions of the Parties. Several parties support the Commission's collection of regulatory fees.[165] For example, BellSouth states that it "is not opposed to the Commission's collection of fees related to its NANP oversight responsibilities provided the fees are

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[162] NPRM at para. 31.

[163] See Omnibus Budget Reconciliation Act of 1993, P.L. No. 103-66, Aug. 10, 1993. Under Section 9(b)(1)(A) of the Communications Act, as amended by the Budget Act, the amount of the "regulatory fees" to be collected for a given activity is "derived by determining the full-time equivalent number of employees performing the activit[y] . . . adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities . . . ."

[164] NPRM at para. 33.

[165] See BellSouth Comments at ii; CTIA Comments at 6; MCI Reply at 4.

quantifiable and reasonable."[166] Others oppose the use of regulatory fees to fund numbering activities.[167] They argue that the Commission does not need to collect additional fees beyond those currently collected because any additional burden imposed on the Commission to regulate numbering will not be significant.[168]

84. Discussion. We conclude that the Commission should invoke its Budget Act authority to recover its costs for regulating numbering activities, including costs incurred from the establishment, oversight of and participation in the NANC. The Commission is required to institute a rulemaking proceeding annually to adjust the schedule of regulatory fees to reflect its performance of the activities described in the Budget Act.[169] Therefore, we intend to include the costs incurred by the Commission related to NANC and the regulation of numbering in the fiscal year 1996 adjustment of the schedule of regulatory fees. In that proceeding we will assess the nature and amount of the additional burdens imposed by the activities authorized here and all interested parties will be afforded an opportunity to comment.

2. Funding for NANP Administrator

85. Background. In the NPRM, the Commission sought comment on potential mechanisms to recover the cost of the NANP Administrator, if the Administrator was an entity other than the Commission. These mechanisms included voluntary contributions, charges for numbering resources, a fund supported by mandatory contributions, assessment of a surcharge on an existing fund and use of a surplus from an existing fund.[170] The NPRM also observed that CSCN commented that impartial numbering administration will only be perceived to occur if funding is provided on the widest industry base practicable -- including all of North America.[171] The NPRM concluded by noting Commission plans to establish, with other NANP member countries, a system of charges payable directly to the new NANP administrator by those who directly benefit from operation of the NANP.[172]

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[166] BellSouth Comments at iii.

[167] See GTE Comments at 13, n. 25; Pacific Comments at 7-8; PCIA Reply at 12; SBC Comments at 7.

[168] PCIA Reply at 12; SBC Comments at 7.

[169] 47 U.S.C. § 159(b)(2).

[170] NPRM at paras. 34-37.

[171] Id. at para. 30 citing CSCN NOI Comments at 1.

[172] Id. at para. 38.

86. Positions of the Parties. Commenters urged the Commission to consider a number of general principles regarding funding of NANP administration. The fundamental principles commenters raised include: Any funding mechanism should be equitable, competitively neutral and apply consistently to all users of number resources; numbering administration should be funded by all users of number resources or those who directly benefit from number resources; any funding mechanism should encourage efficient use of number resources; and, the costs of funding numbering administration should not outweigh the benefits.[173] Bellcore agrees that the costs of numbering administration should be apportioned so that users of numbering resources must pay their fair share, but cautions that "the cost to develop and execute such an approach could easily exceed the cost of the current administration activities."[174] Few parties estimate how much administration of the NANP will cost: AT&T states that $2 million was estimated as a first year budget for the administration of NANP;[175] McCaw asserts that the costs of NANP administration would be $10 million per year.[176]

87. Ad Hoc also suggests that cost recovery should be "no fault", in that all parties bear their own costs for network and switch modification resulting from numbering changes.[177] AirTouch argues that the cost of participation in industry numbering policy forums should be borne by the participants themselves as this is a cost of doing business.[178] Several parties, primarily LECs, argue that any funding plan should recover only future costs and should not impose charges retroactively for numbers that have been assigned previously and are already in use.[179] Bell Operating Company (BOC) commenters contend that they have already paid for administration of numbers in use because they have been funding NANP administration through Bellcore for ten years; retroactively charging for those numbers, therefore, would force BOCs to pay twice.[180] Three commenters maintain that any cost-

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[173] See, e.g., OPASTCO Comments at 5; NYNEX Comments at 12.

[174] Bellcore Comments at 5.

[175] AT&T Comments at 12, n. 16.

[176] McCaw Comments at 5, n. 13.

[177] Ad Hoc Comments at ii; see also, AirTouch Comments at 5.

[178] AirTouch Comments at 5.

[179] See, e.g., Bell Atlantic Comments at 5-6, Reply at 1-2; CMA Comments at 1; GTE Reply at 4-5; Pacific Reply at 2, n. 1; SBC Reply at 9-10.

[180] See Bell Atlantic Comments at 5-6; Pacific Reply at 2, n. 1; SBC Reply at 10.

recovery mechanism must take into account numbers that are already in use.[181] TCG argues that not including numbers already in use would "permanently eliminate the single largest source of funding for future NANP administrative functions."[182]

88. Parties propose several funding mechanisms to offset those costs of NANP administration that are not recovered through Commission regulatory fees. Many commenters agree with the tentative conclusion in the NPRM that NANP administration should be funded by a system of cost-based charges, assessed in relation to an entity's use or benefit from the use of numbering resources. Some commenters agree that charges should be payable directly to the NANP administrator.[183]

89. Several commenters suggest using surpluses or surcharges from existing funds established by the Commission, such as the Telecommunications Relay Service (TRS) Fund,[184] to recover the costs of numbering administration. They argue that using an existing fund would obviate the need to create an entirely new funding infrastructure.[185] Parties opposed to using surpluses argue that such a system of cost recovery would be inequitable.[186] NECA, the administrator of the TRS fund, argues that existing fund surpluses should not fund numbering administration because funds should "be utilized only for the specific purposes authorized by

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[181] See McCaw Reply at 10; Nextel Reply at 8; TCG Reply at 4.

[182] TCG Reply at 4.

[183] See, e.g., Pacific Comments at 8; Dean Brothers Comments at 4-5.

[184] TRS is a telephone transmission service that allows persons with hearing and/or speech impairments to use the telephone. The TRS Fund is a shared funding mechanism for recovering the costs involved in providing interstate TRS service. See 47 C.F.R. § 64.604(c)(4)(ii). All carriers providing interstate telecommunications service are required to contribute a portion of their gross interstate revenues to the TRS Fund, see 47 C.F.R. § 64.604(c)(4)(iii)(A)-(B), and TRS providers receive payments from the Fund designed to compensate them for the reasonable costs incurred in providing TRS service. See 47 C.F.R. § 64.604(c)(4)(iii)(E). The TRS fund is currently administered by the NECA. See Telecommunications Relay Services, Third Report and Order, 8 FCC Rcd 5300 (1993).

[185] AT&T Comments at 13, n. 17; Bellcore Comments at 6 (noting, however, that "this might not provide an appropriate vehicle for participation in funding" by other NANP countries); McCaw Comments at 5, n.13 (supports small surcharge on an existing fund, but does not support using surpluses of existing funds); PCIA Reply at 12; Teleaccess Comments at 5.

[186] See, e.g., McCaw Comments at 5, n. 13; SBC Comments at 7-8.

the Commission."[187]

90. Other commenters support creation of a new fund to pay for numbering administration.[188] Several commenters argue that a new funding mechanism could be administered by NECA.[189] Commenters opposed to creation of a new funding pool argue that a separate funding infrastructure would be inefficient because it "would simply create another layer of administration that would require funding of its own."[190] BellSouth argues that the Commission should collect costs under a system similar to the SMS 800 Database cost recovery system.[191]

91. Many parties commented on how an entity's charge for NANP Administration should be determined. Sprint suggests that charges to fund numbering administration should be assessed in proportion to each entity's use of numbering resources by using the criteria in the Budget Act Schedule of Regulatory Fees to compute charges.[192] Sprint indicates that use of this schedule would apply to all telecommunications service providers which use numbering resources, be simple to implement and be competitively neutral.[193] SBC maintains that the costs of NANP administration should be shared equally by all who use or benefit from numbering resources; the cost would be spread among many different entities, minimizing the costs to each contributor.[194] A majority of parties commenting on the issue argue that charges to recover costs of number administration should be assessed in proportion to each entity's use of or benefit from numbering resources.[195] They argue that proportional funding is the "only fair, logical and competitively neutral approach for funding numbering administration."[196]

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[187] NECA Comments at 10.

[188] See AT&T Comments at 13 (supporting use of NECA to implement new NANP funding mechanism); ATIS Comments at 12; CBT Comments at 4; Pacific Comments at 8.

[189] See AT&T Comments at 13; NYNEX Comments at 14; NECA Comments at 9.

[190] OPASTCO Comments at 5. See also PCIA Reply at 12; CTIA Comments at 6.

[191] BellSouth Comments at 12.

[192] Sprint Reply at 6.

[193] Id. at 7.

[194] SBC Comments at 6-7.

[195] See, e.g., MFS Comments at 6; NARUC Comments at 5; Nextel Reply at 9; Stentor Comments at 8; TSTT Reply at 4.

[196] Nextel Reply at 9.

92. Other parties argue that fees for numbering administration should be assessed in proportion to each entities' use of numbering resources by imposing charges on a per-number basis.[197] For example, Vanguard argues that this is the easiest measure that reflects a provider's use of numbers and should be modest given the large amount of telephone numbers.[198] LEC commenters do not support per-number charges. They argue that carriers should not be subject to per-number charges because numbers are a national resource[199] and because per-number charges would be inequitable.[200] Sprint contends that fees should not "purport to reflect the value -- actual or perceived -- of the numbering resources."[201] All commenters who addressed the issue opposed making contributions for NANP funding voluntary.[202]

93. Several parties address how costs can be recovered from entities outside of the United States, but within the NANP. Some parties propose nominal fees[203] or per-minute charges for non-U.S. entities that do not wish to voluntarily contribute.[204] Stentor maintains that the costs of regulation in any country should be borne solely by that country or by entities within that country.[205] USTA states that "[r]egulators and industry participants in [the U.S.] must work with the counterparts in the rest of World Zone 1 to ensure that all who use the NANP fund their fair share . . ." of numbering administration costs.[206]

94. Discussion. We conclude that for the purpose of recovering the costs of the NANP Administrator within the United States that the gross revenues of each communications

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[197] See CMA Comments at 2; Telco Planning Reply at 1; Vanguard Comments at 13.

[198] Vanguard Comments at 13.

[199] See AirTouch Comments at 5; Pacific Comments at 8.

[200] See Stentor Comments at 7-8 (per-number charges would unduly favor IXCs, which do not have significant dedicated number resources but benefit from those resources); USTA Reply at 3.

[201] Sprint Comments at 10.

[202] See Dean Brothers Comments at 4; GTE Comments at 14; McCaw Comments at 5, n. 13; Pacific Comments at 9; Stentor Comments at 8; TSTT Reply at 3; and USTA Comments at 9.

[203] NECA Comments at 9.

[204] NEXTEL Comments at 13.

[205] Stentor Comments at 8.

[206] USTA Comments at 9.

provider should be used to compute its contribution to the NANP Administrator. We anticipate that the current funding of Bellcore, as NANP Administrator will continue until Bellcore's current functions have been transferred to the new administrator. Likewise, we anticipate that the current funding and cost recovery mechanisms for the CO code administrators will continue until a CO code administrators' current responsibilities are transferred to the new NANP Administrator. Within these guidelines, we request that the NANC determine the details concerning recovery of the NANP Administrator costs, such as the specific mechanisms for collecting these funds and disbursing them to the Administrator. While the record does not allow an exact determination of the costs of NANP Administration, it would appear that the costs of the current NANP administration functions of Bellcore are on the order of $1.5 million, based on the number of Bellcore staff currently working on NANP administration. Once CO code administration centralization occurs it appears the annual cost for the NANP administrator would not exceed $10 million, based on estimates that staffing would at most require 40-50 people with loaded salaries including overhead costs of $200 thousand per employee.

95. We agree with parties who contend that the fundamental principles in establishing a cost recovery mechanism are that the mechanism should be fair, competitively neutral and apply consistently to all users of number resources. We further agree that NANP administration costs should be borne by those who benefit from number resources and that the cost to administer a cost recovery mechanism should be reasonable in light of the total costs for number administration. Applying these principles and objectives set forth in Section III, we assess each of the proposed cost recovery mechanisms and methods for determining each entity's charge.

96. We also agree with commenters who indicate that a funding mechanism should encourage efficient use of number resources. With respect to the efficient use of number resources, we believe the mechanism we adopt should not undermine that goal. Beyond commenters' suggestions that a funding mechanism should promote efficient use of number resources, recent industry events involving 800 numbers and CICs suggest that approaches for ensuring number conservation and their efficient use are necessary. We are currently developing measures to ensure more efficient use of 800 and 888 toll free numbers and are investigating several matters related to current consumption of CICs. Additionally, there are other approaches, such as number auctions that could ensure more efficient use of number resources. As discussed in Section IV, B(2), we have also requested a recommendation from the NANC as to how numbers can be conserved. As part of this recommendation, we request that the NANC investigate the possible use of number auctions, per number charges that reflect the different values of a numbering resource and other funding mechanisms that may be used to ensure efficient number use.

97. We reject the proposal to use surpluses or surcharges from existing funds to offset the costs of numbering administration because the parties contributing to other funds would not comprise all the entities benefitting from NANP administration. Using surpluses or surcharges would therefore be inequitable. Reliance on surpluses from or surcharges on

existing funds would not allow for participation of non-United States members of the NANP. In addition, surpluses cannot be projected with any certainty from year to year. We decline to create a separate new fund to pay for numbering administration because as several commenters have observed, creation and administration of a new fund would itself impose an additional layer of costs for administrating the new fund.

98. We also reject BellSouth's suggestion that costs for numbering administration be collected under tariff similar to those used to achieve the SMS 800 Database cost recovery system.[207] We find that such a tariff requirement is inconsistent with the international nature of the NANP because the tariffs would be approved and regulated by the Commission without affording other NANP member countries approval authority.

99. The Commission also must address how charges for recovery of numbering administration costs should be allocated. Charges to fund numbering administration should be assessed in proportion to each entity's use of or benefit from numbering resources. We believe that numbering is fundamental to the telecommunications industry. Very few of the functions performed by the industry could be performed without the use of numbers. We conclude each communications provider should pay a fee based on its direct or indirect use of numbering resources and that charges for the NANP Administrator will be based on each communications providers's gross revenue, which is a reasonable and equitable measure of that use. The funding approach is prospective and assures that all users of numbering resources contribute to funding administration of the numbering resources upon which they rely. Our enforcement authority under the Communications Act will ensure that NANP Administrator fees will be paid.

100. While we recognize that use of per number charges applied to specific number types, reflecting their relative scarcity and value may be appropriate and achieve important efficiency objectives, at this time we do not believe charging on a per-number basis for all numbers would be appropriate. We do not support funding the NANP Administrator solely through per-number charges because per-number charges would be inequitable, as they may fall disproportionately on the fastest growing users of numbers such as wireless service providers. Additionally, implementing a system of per number charges would require additional record keeping and accounting to establish each entity's charge, leading to an additional administrative level which many parties and this Commission seek to avoid.

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[207] Access to the 800 Service Management System (SMS) is tariffed under Title II of the Communications Act. DSMI provides a centralized organization to administer access to the SMS Database for Responsible Organizations (RESPORGs). DSMI is responsible for administration of the SMS, user billing and collection of tariff charges. To the extent that DSMI focuses solely on ministerial functions associated with 800 number assignment, the DSMI's role within the 800 number assignment model is similar to the role of the NANP Administrator in the Industry Model we adopt for NANP administration.

101. We also conclude that we will not rely on voluntary contributions because, they are too unreliable a source of funding for the new NANP administrator. Additionally, voluntary funding does not ensure a fair allocation of the cost of administering numbering resources among those that will benefit from such administration. Similarly, a flat uniform charge imposed upon all users of numbering resources would not ensure a fair allocation of the use of numbering resources: large users of numbering resources would contribute too little, while small users would pay too much. Even if a flat fee for numbering administration were minimal, it is simply inequitable to require entities that consume little of this limited resource to pay the same fee as those that consume greatly.

102. Because the NANP is an international resource, the administrator would be providing services to the telecommunications service providers of the United States and other nations. This Commission, however, clearly cannot impose any funding requirements on entities outside of the United States. We would hope that their recognition of the benefits accruing from their participation in the NANP would cause entities outside the United States to continue to contribute to its success. We believe that Canadian and Caribbean telecommunications entities could easily be incorporated into the mechanism we require for United States carriers, so that one method of funding may be used for all. As with all NANP-related issues, we will continue to coordinate NANP funding issues with Canada and Caribbean member countries.

E. Transition to New NANP Structure

1. Bellcore Report

103. Background/Positions of the Parties. Nextel states that Bellcore should file a report detailing its functions and costs related to NANP administration.[208] MCI supports this suggestion.[209] ALTS, in its comments, suggests that the Commission should direct Bellcore "to set forth its existing policies ... [and] the Commission should then issue those policies for comment and ultimate Commission approval before any new body is formally charged with taking over their administration."[210] MCI opposes this suggestion, arguing that a requirement that Bellcore file a report is adequate and more efficient.[211]

104. Discussion. Bellcore, as the current NANP Administrator, is best situated to provide guidance regarding administrative functions and associated costs. Throughout its tenure as Administrator, Bellcore has conducted number administration in a manner that

[208] Nextel Comments at 14-15; Nextel Reply at 2.

[209] MCI Reply at 8.

[210] ALTS Comments at 4.

[211] MCI Reply at 8.

ensured the integrity of the NANP and has fully cooperated with the Commission. We fully anticipate that during the transition to a new Administrator, Bellcore will continue to operate in a manner that ensures the integrity of the NANP and is supportive of transition efforts. Therefore, we do not require Bellcore to file a report detailing its functions and costs as Nextel requested.

2. Schedule

105. Background. In the NPRM, the Commission stressed the need for prompt selection of the new NANP Administrator and transition to the new NANP model.[212] The Commission cautioned, however, that the new interchangeable numbering plan areas (INPAs) would have a significant effect on NANP administration. The Commission tentatively concluded: "the transition period should begin as soon as the new administrator is identified, and ... extend to a date at least six months after the change to INPAs in January 1995."[213]

106. Positions of the Parties. The majority of the commenting parties addressing this issue agrees that transition to the new NANP administration model should be as prompt as possible.[214] There is also, however, concern that the transition period be sufficiently long that the new Administrator can prepare adequately to assume its new functions.[215] The commenting parties generally conclude January 1995, when the first INPAs were introduced, is a reasonable time to begin the transition, but differ over the specific length of the transition period. For example, Sprint states: "... because INPA conversions are demand-driven ... Bellcore should not remain the NANPA until the entire country has INPAs. Instead, the new NANP Administrator should assume control as soon after January 1, 1995 ... as possible."[216] Similarly, Telaccess argues: "The new administrator should begin *no later* than 6 months after January 1995 ... There is nothing that INPAs can seriously endanger ... [E]ntertaining any longer time frames will be a disservice to the marketplace. The Commission should target January 1995 as the date it begins taking over numbering administration from Bellcore."[217] Conversely, other commenting parties feel that the implementation of the INPAs should signal the beginning of a lengthier transition period. For example, Bell Atlantic and Stentor both

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212 NPRM at para. 17.

213 Id.

214 See, e.g., Sprint Comments at 5-6; Bell Atlantic Comments at 2; Ad Hoc Comments at 2.

215 See, e.g., GTE Comments at 9-10; PCIA Comments at 7.

216 Sprint Comments at 5-6.

217 Telaccess Comments at 4.

suggest a one-year transition period.[218]

107. Regarding the period for the transfer of CO code administration functions, while there is concern expressed that the function should be centralized promptly,[219] several commentors argue that this should not occur until after other NANP administration functions have been transferred because CO administration is more complex than other NANP administration functions.[220]

108. Discussion. We believe the transition to adopt the industry model for number administration, transfer Bellcore's current NANP administration functions to a new administrator and centralize CO codes should occur as rapidly as possible, consistent with sound planning. To this end, we establish the following transition schedule that sets time periods as outside limits for the completion of each phase of the transition. Those steps are:

1) The first meeting of the NANC that we are seeking to establish should occur no later than 30 days after the Charter's approval, which we anticipate will occur promptly after release of this Order;

2) The NANC should select the NANP Administrator no more than 180 days after the NANC's first meeting;

3) Shifting of the current NANP Administrator's functions to the new NANP Administrator should occur no later than 90 days after selection of the new NANP Administrator; and

4) The CO code assignment function should be transferred to the new NANP Administrator no more than 18 months after the new administrator has assumed all of Bellcore's current NANP Administrator functions.

109. We intend immediately to take all steps necessary to secure the approval of the Office of Management and Budget and the General Services Administration of the NANC as a federal advisory committee, and following such approval, to notify the public of the existence of the committee. We will work to ensure that the NANC will be able to meet promptly after its charter is approved. The initial NANC meeting is essential to an orderly and prompt selection of an NANP Administrator and the transfer to it of Bellcore's responsibilities as NANP Administrator.

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[218] Bell Atlantic Comments at 2; Stentor Comments at 3.

[219] See, e.g., Ad Hoc Comments at 6-7; APC Comments at 2; TCG Reply at 2.

[220] See, e.g., Bell Atlantic Comments at 4; GTE Reply at 3; McCaw Reply at 8; MFS Reply at 4.

110. Once the NANC conducts its first meeting, we expect that it will begin advising us promptly. As stated above, a primary purpose of the NANC will be for it to select an impartial NANP Administrator.[221] Within 180 days after its first meeting, the NANC should select a new NANP Administrator. The combined expertise of the various members of the NANC should enable them to select a NANP Administrator promptly and efficiently.

111. We do not believe that there is a need for lengthy transition period for Bellcore's current NANP Administrator functions to be transferred to a new Administrator. This transfer involves only two entities, Bellcore and the new administrator and the functions to be transferred have existed for some time and are well defined by Bellcore.

112. The specific designation in the NPRM of a transition period of at least 6 months after introduction of the INPAs in January 1995 is now moot. INPAs are currently being introduced and efforts are in place to address the problems associated with them.[222] A three month maximum transition period after selection of the NANP Administrator should be adequate also given our expectation that Bellcore will continue to provide useful information to the new NANP Administrator.

113. A lengthier transition period for the transfer of the CO code administration function is necessary. We are not initiating a separate proceeding to determine whether CO code administration should be performed by the new NANP Administrator.[223] We do recognize a need for a transition period to transfer CO code administration to permit the new administrator to gather necessary information and perform the logistics involved in transferring CO Code administration from the LECs to the NANP Administrator.

114. The difficulty of centralizing and transferring CO code administration to a new NANP Administrator will be much greater than that associated with transferring those functions already performed by the current NANP Administrator. Eliminating the potential for discriminatory treatment that exists under the current system is a major purpose behind the decision to adopt the new model for administering numbering resources. Nonetheless, the new Administrator must have the opportunity to become fully competent to perform the CO code functions before those functions should be transferred.

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[221] See Section IV, B, supra.

[222] The primary problem is Private Branch Exchange (PBX) systems that have not been modified to recognize the new NPAs. Consumers experiencing problems should contact the PBX system provider to determine whether the PBX has been appropriately modified. They also should try to complete the call by first dialing "0." See FCC Public Notice, Consumer Alert: Telephone Number Changes (May 12, 1995).

[223] See para. 79, supra.

115. We therefore conclude that the functions associated with CO code administration shall be transferred from the LECs to the new NANP administrator no more than 18 months after the transfer of the existing NANP administrative functions from Bellcore to the new administrator has been completed. During the transition to a centralized administration, parties alleging discriminatory treatment with respect to CO code assignment may continue to seek relief from state regulators or the FCC. We will seek a recommendation from the NANC as to a specific transfer plan.

V. CONCLUSION

116. The Commission intends to create the NANC, which will have broad membership, be organized under the provisions of the Federal Advisory Committee Act and operate subject to the provisions of its charter. We affirm that the NANP Administrator should be a single, non-government entity that is not closely identified with any particular industry segment and that the NANP Administrator should assume current NANP Administrator functions of Bellcore, as well as functions associated with administration of CO codes. The NANP Administrator will be selected by the NANC. We affirm that the Commission can and should impose fees to recover its costs of regulating numbering resources. We determine that charges to telecommunications providers to fund the NANP administrator should be in proportion to the gross revenues of telecommunications providers. We present a transition schedule to achieve the new structure for overall number administration.

117. We also define the respective roles of the Commission, the NANC, and the NANP Administrator. The Commission will establish broad domestic policy objectives, make policy and conduct ultimate resolution of domestic numbering disputes. The NANC will advise the Commission, direct the NANP Administrator, apply Commission policy to resolve issues arising in the administration of the NANP, and conduct initial dispute resolution of all issues. The NANP Administrator will process number resource applications and maintain administrative numbering databases. Details and additional activities of the NANP Administrator will be determined by the NANC, so long as these additional activities do not involve policy making or dispute resolution. The industry should continue to determine who maintains the network support databases.

118. We seek from the NANC recommendations on the following issues: (1) What should the plan be for transferring CO code administration responsibilities from LECs to the new NANP Administrator? (2) What future measures should be taken to ensure conservation of numbering resources? (3) What number resources, beyond those currently administered by Bellcore, as the NANP Administrator, should the new NANP Administrator administer? (4) Whether the NANC, after two years, should continue as a federal advisory committee. Additionally, we intend to seek ongoing advice from the NANC on the steps that the Commission should take to foster efficient and impartial number administration. During the first meeting of the NANC we will determine timeframes for the NANC to determine these recommendations.

VI. PROCEDURAL MATTERS

A. Final Regulatory Flexibility Analysis

119. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. § 601 et. seq., the following final analysis has been prepared:

Need for and objective of the rules:

This Report and Order addresses comments filed in response to the Notice of Proposed Rulemaking (NPRM) concerning administration of the North American Numbering Plan. The rules are necessary to ensure an efficient administration of numbering resources.

After evaluating the comments and reply comments in this proceeding, and further examination of the impact of any rule changes on small entities, the Commission finds that the rule revisions in this proceeding will not have a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. While the rules adopted in this proceeding apply to telecommunications corporations of all sizes that are now assigned telephone numbers or that may in the future seek such assignments, the impact on small business entities served by these corporations and on small telecommunications companies will not be significant.

Summary of issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis:

No comments were submitted in direct response to the Initial Regulatory Flexibility Analysis.

Significant alternatives considered:

The NPRM requested comments on several issues. The Commission has considered all comments and has determined that its numbering policies are best served by the policies adopted herein.

VII. ORDERING CLAUSES

120. ACCORDINGLY, IT IS ORDERED, that pursuant to authority contained in Sections 1, 4(i), 4(j), 7, 201-205 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 157, 201-205, and 403, that the decisions and policies adopted herein SHALL BE EFFECTIVE thirty days after the date of publication in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

APPENDIX A: LIST OF PARTIES

I. Parties Filing Comments (June 7, 1994)

Ad Hoc Telecommunications Users Committee (Ad Hoc)
AirTouch Communications (AirTouch)
Alarm Industry Communications Committee (AICC)
Alliance for Telecommunications Industry Solutions (ATIS)
Allnet Communications Services, Inc. (Allnet)
American Mobile Telecommunications Association, Inc. (AMTA)
American Personal Communications (APC)
American Petroleum Institute (API)
American Public Communications Council (APCC)
Ameritech Operating Companies (Ameritech)
Association for Local Telecommunications Services (ALTS)
AT&T Corp (AT&T)
Bell Atlantic
Bell Communications Research, Inc. (Bellcore)
BellSouth Telecommunications, Inc. (BellSouth)
Canadian Steering Committee on Numbering (CSCN)
Cathay, Hutton & Associates, Inc. (CHA)
Cellular Telecommunications Industry Association (CTIA)
Cincinnati Bell Telephone Company (CBT)
Communications Managers Association (CMA)
Competitive Telecommunications Association (CompTel)
Dean Brothers Publishing Company (Dean Brothers)
GTE Service Corporation (GTE)
GVNW Inc./Management (GVNW)
McCaw Cellular Communications, Inc. (McCaw)
MCI Telecommunications Corporation (MCI)
MFS Communications Company, Inc. (MFS)
Missouri Public Service Commission (MoPSC)
National Association of Regulatory Utility Commissioners (NARUC)
National Communications System (NCS)
National Exchange Carrier Association, Inc. (NECA)
Nextel Communications, Inc. (Nextel)
North American Telecommunications Association (NATA)
NYNEX Corporation (NYNEX)
Organization for the Protection and Advance of Small Telephone Companies (OPASTCO)
Pacific Bell and Nevada Bell (Pacific)
Personal Communications Industry Association (PCIA)
Rock Hill (RHTC), Fort Mill (FMTC) and Lancaster Telephone Companies (LTC)
Southwestern Bell Corporation (SBC)
Sprint Corporation (Sprint)

Stentor Resource Centre Inc. (Stentor)
Telaccess
Tele-Communications Association (TA)
Telco Planning, Inc. (Telco Planning)
Telecommunications Resellers Association (TRA)
Teleport Communications Group Inc. (TCG)
United States Telephone Association (USTA)
US WEST, Inc. (US WEST)
Vanguard Cellular Systems, Inc. (Vanguard)
VarTec Telecom, Inc. (VarTec)

II. Parties Filing Reply Comments (June 30, 1994)

Ad Hoc
Aeronautical Radio, Inc. (ARINC)
ATIS
Allnet
ALTS
Ameritech
APCC
AT&T
Bell Atlantic
Comptel
CTIA
GTE
McCaw
MCI
MFS
NATA
National Telephone Cooperative Association (NTCA)
New York State Department of Public Service (NYDPS)
Nextel
NYNEX
Pacific
PCIA
SBC
Sprint
TA
TCG
Telco Planning
Telecommunications Services of Trinidad and Tobago Limited (TSTT)
USTA
US WEST

Tab 9

LOCAL NUMBER PORTABILITY

I. OVERVIEW OF LOCAL NUMBER PORTABILITY ORDER

- LECs must provide local number portability in accordance with the Order. Number portability is essentially defined as service provider portability -- ability to change service providers while retaining same phone number.

- Rather than selecting a particular architecture, the order establishes performance criteria that a LEC's long-term number portability architecture must meet. Any long-term method must:

  (1) support existing network services, features, and capabilities;

  (2) efficiently use numbering resources;

  (3) not require end users to change their telecommunications numbers;

  (4) not require telecommunications carriers to rely on databases, other network facilities, or services provided by other telecommunications carriers in order to route calls to the proper termination point;

  (5) not result in unreasonable degradation in service quality or network reliability when implemented;

  (6) not result in any degradation of service quality or network reliability when customers switch carriers;

  (7) not result in a carrier having a proprietary interest;

  (8) be able to accommodate location and service portability in the future; and

- Long-term number portability must be provided by all LECs in the 100 largest MSAs, according to a phased deployment schedule that begins fourth quarter 1997 and ends Dec. 31, 1998. Thereafter, for smaller cities, LECs must provide number portability within 6 months of a specific request by another telecommunications carrier.

- Cellular, broadband PCS, and covered SMR carriers must have the capability of querying a number portability database, or make arrangements with other carriers to do these queries, by December 31, 1998, and must implement long-term number portability by June 30, 1999.

- A field test of LRN or other technically feasible long-term method must take place in the Chicago area beginning no later than July 31, 1997, and concluding no later than August 31, 1997.

- Long-term number portability must be provided by means of a national system of regional databases that are managed by an independent third-party local number portability administrator(s) (LNPA(s)) selected by the North American Numbering Council (NANC).

- Local exchange carriers must also provide currently available interim number portability methods, such as Remote Call Forwarding (RCF) or Flexible Direct Inward Dialing (DID), in accordance with the Order.

- Cost recovery of long-term number portability will be determined in a separate Order.